



HW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Milton Hammerly

Filed: 08/01/2003

For: "Estrogenic Substances Combined with Cruciferous Indole Compounds"

Serial No.: 10/633,383

Group Art Unit: 1617 November 2, 2006

Examiner: Leonard Williams

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on November 2, 2006

Chris Murrell
Signature

11/2/06
Date

RESPONSE TO RESTRICTION REQUIREMENT

Applicant hereby acknowledges receipt of an Office Action containing a restriction requirement in the above-identified pending Application for patent, which Office Action is dated October 3, 2006. The instant paper is a Response to that restriction requirement.

The 10/3/06 Office Action indicates that the application contains claims directed to patentably distinct species specified within the groups of "estrogenic substance" and "cruciferous

indole compound".

Applicant hereby elects estradiol as the estrogenic substance, and diindolyl methane as the cruciferous indole compound for further prosecution on the merits.

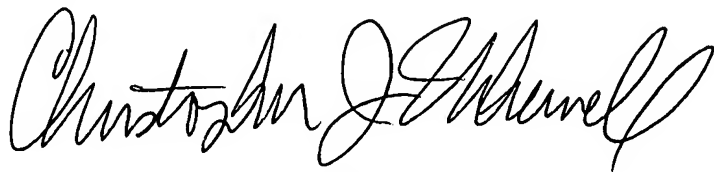
This election is being made with traverse, because compositions of matter comprising a cruciferous indole compound in combination with estrogenic substances have been patented as compositions by Applicant, in the parent case to the instant Application, US 6,605,605.

Applicant submits that since the compositions claimed in the parent case US Patent 6,506,605 are novel and non-obvious over the prior art, that it is necessarily true that the process claims for using such compositions as specified in the instant claims must be patentable as well. The issuance of US Patent 6,605,605 carries with it the presumption of validity, restriction of the species in the 10/3/06 Office Action is believed un-necessary because the use of a novel and non-obvious composition can be neither non-novel, nor obvious.

The claims which are readable on this species election are claims 1 through 20.

Thank you for your consideration.

respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher J. Whewell". The signature is fluid and cursive, with the first name being the most prominent.

Christopher J. Whewell, Reg. No. 37,469
6020 Tonkova Trail
Georgetown, Texas 78628
(512) 763-1142